



2010 Child Care Center Licensing Changes: The “Nuts & Bolts”

Renee Larsen, Department of Human Services (DHS)
Angell Boyd, Department of Public Safety/Division of
Criminal Investigation (DPS/DCI)
Nancy Loghry, Department of Administrative Services
(DAS)



Child Care Center Regulations

- 2008 Legislative session- Senate File 478 passed in “Standings Bill”
- Made changes to Iowa Code 237A that governs child care facilities
- DHS wrote rules to reflect the changes in 237A (procedure, process clarification, related issues)
 - Rules also included provisions of amended code 692A related to sex offenders w/a sex offense against a minor
 - Other provisions



Chapter 109: Overview of Changes

Record Checks

- Clarify who is subject to a check
- Centers may access Single Contact Repository (SING) to conduct their own Iowa record checks or go through DHS (DHS will use SING)
- Fingerprinting for FBI national check
- DHS not responsible for costs of record checks

4/6/2010

Licensing Fee

- Centers to pay fee for licensure/relicensure based on capacity

Volunteers

- Minimum age 16

Training

- If less than 20 hours/week, center director must comply with >20 hr. training requirements

Policies

- Biting
- Access (related to record checks/safety, sex offenders)

Record checks

- First, we'll talk about who is subject to a record check
- Then we'll address the Iowa checks- general requirements, SING, record check results, evaluations
- Then we'll address the FBI record check process (national check)- requirements, process, results, evaluation process



Who is subject to a record check?

- Owner, director, staff member, substitute, volunteer, subcontracted staff person who has direct responsibility for child care or with access to a child when the child is alone
- Anyone living in the center who is 14 years of age or older



Who is NOT subject to a record check?

- Those who DO NOT have direct responsibility for child care or access to a child when the child is alone.
- Parents , guardians, custodians in relation to their own child
- Professionals licensed by the Board of Educational Examiners (BOEE) who provide professional services consistent with Iowa code 272 in relation to the child to whom such services are being delivered. If such a professional is directly providing child care services to or is alone with other children, they need to undergo a record check by the center. Centers can confirm BOEE-licensure by accessing the website: www.boee.iowa.gov

What does Direct Responsibility for Child Care Mean?

Definition: “Being charged with the care, supervision, or guidance of a child”

- *Those in ratio are always directly responsible for child care*
- *Sometimes, those NOT in ratio are directly responsible for child care*



Guidance Questions for Record Check Determination

- Is the person in ratio?
- Is the person being charged with the care, supervision, and guidance of a child? (**Consider:** the role of the person in relation to children in the center, person's activities, where paid center staff in ratio will be/what they will be doing when person is there, etc.)
- Does the person have access to a child alone?

If the answer to any of the above three questions is yes, the person needs to have a record check **BEFORE** they fall into one of the above categories (unless they fall into one of the exemptions- BOEE- licensed, parent in relation to their own child)

Determining Who is subject to a Record Check: Example 1 Volunteer

Example 1:

Gary Gregarious is a parent who has volunteered to assist paid center staff with a special craft project . Gary hands-out supplies, cleans-up scraps, and watches children coloring at a table , occasionally engaging in verbal interaction w/the children. He is not in ratio. A paid staff person who is in ratio to the children at the table has been assigned to supervise Gary's interactions with the children. She is within close enough physical proximity to hear and see all interactions, between Gary and the children, and intervenes when a minor argument breaks out between two children. Gary stays in the room for 30 minutes, leaving once to use the staff bathroom.

- In this case, Gary does not need to undergo the record check process. He has not been charged with the care, supervision, or guidance of a child, is not alone with children, and is under the direct supervision of a paid staff person, who is able to execute their duties of care to the children.



Determining Who is Subject to a Record Check: Example 2 Volunteer

Example 2:

Gary Gregarious is a parent who has volunteered to assist paid center staff with a special craft project. Gary hands-out supplies, cleans-up scraps, and watches children coloring at a table, occasionally engaging in verbal interaction w/the children. He is not in ratio. A paid staff person who is in ratio to the children at the table has been designated to supervise Gary and his interactions with the children. However, the staff is working with another group of children and cannot see/hear what is occurring at Gary's table. An argument breaks out between two children, and Gary intervenes, separating the children and placing one in time out.

- In this case, Gary has been “charged with responsibility for child care” and is “alone” with children due to the inattentiveness of the paid staff person. If Gary has not had a record check, the center is not in compliance and assumes responsibility for anything that may happen between Gary and the children, up to and including responsibility for child abuse. This is true even when the center has no intention of putting the person in a role of assuming responsibility for child care or leaving the person alone with children.

IT IS IMPERATIVE THAT CENTERS NOT ALLOW PEOPLE WHO HAVE NOT HAD A RECORD CHECK TO ASSUME CHILD CARE RESPONSIBILITIES OR BE ALONE WITH CHILDREN. THIS DIRECTLY RELATES BOTH TO CHILD SAFETY AND LIABILITY TO THE CENTER.

Determining Who is Subject to a Record Check: Example 3 Student

Example 3

Susan Student is doing an internship. Although not in ratio, she has been assigned a group of four year-olds for part of the day. She is being supervised by a paid staff person who never leaves the room that Susan is in, but she gives Susan the opportunity to care for, guide, and teach the children without direct intervention.

- Susan needs to undergo a record check as she is charged with the care, supervision, and guidance of children, even though she is not in ratio.



Determining Who is Subject to a Record Check: Example 4 “Parenting Class”

Example 4:

A center is located in an alternative high school where many students have children. As part of a parenting class, students are allowed to diaper, hold, and play with infants or toddlers who are not their own children. They are not in ratio. A paid staff person who is in ratio monitors the students, but is also responsible for providing care to other infants/toddlers while doing so.

- In this case, the student needs to undergo a record check. The student is charged with the care of an infant or toddler, and the paid staff person is occupied with other children so is not able to execute the care of the other children and the supervision of the student's interactions with the infant/toddler at the same time.



Determining Who is Subject to a Record Check: Example 5 Volunteer

Example 5

Dan Daddy wants to go with his daughter Deb on the center's annual trip to the zoo. Dan wants to spend quality time with Deb and is not going to be watching other children. He is going to be driving some of the other children with a staff person in the car.

- Dan needs to have a record check. Driving children is a form of providing care to children, as their lives are in the control of the driver. If Dan just drove his own daughter, he would not have to undergo a record check.

Three Questions



Ask the three questions:

- ✓ Is the person in ratio?
- ✓ Is the person charged with the care, supervision, and guidance of a child? (**consider:** the role of the person in relation to children in the center, person's activities, where paid center staff in ratio will be/what they will be doing when person is there, etc.)
- ✓ Does the person have access to a child alone?

If yes to any of the above, the person needs a record check if they don't fit into one of the formal "exemption" categories

Iowa Record Checks

- Done through the Single Contact Repository (SING)



- Includes checks of:

- The Iowa Division of Criminal Investigation (DCI) criminal database



- DCI sex offender registry



- Department of Human Services Child Abuse Registry

Iowa Record Checks-When To Perform

First step: Identify if person is subject to a record check by asking the three questions

- If subject to a check,
 - Conduct Iowa check prior to person's involvement with child care at the center
 - Every two years thereafter, or when the department or center becomes aware of any possible transgressions

Iowa Record Checks- Options

- Centers may directly access the single contact repository (SING) to conduct Iowa criminal and child abuse record checks of the person in Iowa

OR,

- Centers may go through DHS for the SING check
- First, we'll address how to go through SING directly, then we'll address going through DHS for the SING check

Before starting the Iowa record check process (whether done by center or by DHS) be sure to:

- Include in the application the questions, “Do you have a record of founded child or dependent adult abuse or have you ever been convicted of a crime in this state or any other state? (Iowa Code 237A) Be sure that the individual includes *deferred judgments* even when the judgment has been discharged.
- Inform the subject of the possibility of the performance of a record check and obtain from the applicant a signed acknowledgement of the receipt of the information (Iowa Code 237A)
- Have subject complete Form 595-1396, DHS Criminal Record Check Form B (441 IAC Chapter 109)

Center doing SING: What to do with SING results?

- If SING message, “Not found in registry” (child abuse and sex offender) and “Not found in database” (criminal): **No further action is required for the Iowa check, the applicant may be involved with child care pending the outcome of the FBI check**
- If DCI criminal rap sheet returned, DCI sex offender registry hit found, or DHS SING message “Further research required. Forward to DHS”: **Send in person’s Record Check Form B with copy of SING results, Form S, DCI criminal rap sheet (if applicable) to:**
DHS @Riverplace
2309 Euclid Ave; Des Moines, Iowa 50310;
Attn: Marsha McBee:
- Send these documents to DHS regardless of individual’s status with the center. DHS has to review/evaluate all Iowa transgressions.
- Centers need to inform DHS if the person is no longer being considered for employment upon or after sending in the SING information so that DHS does not send information about the evaluation/review process to the center.

DHS Review of SING Results- Cont.

- For DCI criminal convictions that are sent in by the center, DHS will perform evaluation/review in accordance with 109.6(6)
- For Iowa sex offender registry hits, DHS will issue automatic “prohibition from involvement with child care” notice of decision to subject and send letter to center
- For Child Abuse SING message “**Further research required. Forward to DHS,**” DHS will research to find out if there is an actual founded child abuse report w/ the subject as the alleged perpetrator, and if so, perform evaluation/review in accordance with 109.6(6)

DHS Review of SING Results

- Some transgressions require an automatic prohibition (certain felonies, founded sexual abuse, being on sex offender registry)
- Some transgressions require a five year-prohibition (substance abuse-related, physical abuse)

For these, DHS will send out a notice of decision prohibiting the person from involvement with child care, and will notify the center via letter that the person has been denied involvement with child care.

DHS Review of SING Results

Other transgressions require a formal evaluation. For these, DHS will:

- **Notify the person and the center that an evaluation is being conducted**
- **Send the person Form 470-2310, Record Check Evaluation Form. The form needs to be returned to DHS within 10 days.**
- **Perform evaluation and issue form 470-2386, Record Check Decision to the person with a Notice of Decision prohibiting or permitting their involvement with child care**
- **Send letter to center informing them of whether or not the individual has been approved or denied involvement with child care, and any conditions or corrective action plan related to that involvement**

DHS SING CHECK PROCEDURE

- If a center chooses to not use SING directly to perform the Iowa check, the center may go through DHS to conduct the SING check.
 - Fee for using DHS to perform check is \$25.00/check/person during June 2010; will increase to \$35.00/check /person July 1, 2010
 - Use Child Care Center Record Check Fee Invoice Form 470-4886 (Form is in training materials under “DHS Forms” and will be in Provider Manual Comm. 204.)
 - Have person complete 595-1396, DHS Criminal Record Check Form B.
 - Send to DHS an invoice form for each Form B. You may send in more than one request, but each person **MUST** have a corresponding Form B AND invoice form. You may combine the total amount due in one check, cashier’s check, or money order
 - Send invoice, Form B, and check to: License Fee Collections Unit
Iowa Department of Human Services
Supply Unit- Level A
Hoover State Office Building
1305 East Walnut Street
Des Moines IA 50319

DHS SING CHECK PROCEDURE-CONT.



- Licensing Fee Collection Unit will determine if correct amount paid. If not, request for record check sent back to the center
- If correct amount due submitted, licensing fee collections unit will forward record check materials to DHS Licensing at River place in Des Moines
- DHS will check SING and perform evaluations, issue notifications per the procedure described in slides # 21, 22
- If SING check clear, DHS will issue NOD to individual and letter to center indicating clearance for involvement with child care

Waiver for Substitution of Iowa record Check

For centers participating in student intern programs sponsored by an educational institution when the institution has already performed an Iowa record check

- **NOT automatic waiver**
- **If seeking a waiver, centers MUST complete Form 470-4893 Child Care Center Record Check Waiver Form and provide all requested information and supporting documentation (Form is in training materials under “DHS Forms” and will be in Provider Manual Comm. 204.)**
- **DHS reviews, makes decision to approve or deny within 60 days of receipt of form. Approval may have conditions.**
- **Centers must perform record checks pending decision from DHS**
- **Send Form w/documentation to:**
 - Iowa Department of Human Services**
 - Hoover Building, 5th Floor**
 - 1305 E. Walnut**
 - Des Moines, Iowa 50319**
 - Attn: Program Manager, Child Care**

FBI National Criminal Record check (fingerprinting)



When do we start doing national criminal checks (fingerprints)?

New Center- initial license

- Effective June 1, 2010
- Fingerprints have to be submitted to Department of Public Safety (DPS)/Division of Criminal Investigation (DCI) prior to issuance of initial license
- After that, center required to submit fingerprints to DPS/DCI no later than 30 days after the subject's approval for involvement with child care at the center
- Centers that have an initial licensure date of June 1, 2010 have until July 1, 2010 to submit the fingerprints to the DPS/DCI

Existing center- at relicensure

- Effective June 1, 2010 at relicensure
- Fingerprints have to be submitted to DPS/DCI prior to the issuance of the next license
- After that, center required to submit fingerprints to DPS/DCI no later than 30 days after the subject's approval for involvement with child care at the center
- Centers that have a relicensure date of June 1, 2010 have until July 1, 2010 to submit the fingerprints to the DPS/DCI

How often do we repeat the FBI check?

When DHS wrote the rules, the code required the FBI check to be repeated every four years.

However, legislation was recently passed that will allow DHS to write rules to establish when and how often the FBI check needs to be repeated.

House File 2283:

“The department may adopt rules specifying criteria in the public interest for requiring the national criminal history check of a person to be repeated.”

Who has to have a national check?

If a person has to have an Iowa State record check, the person has to have the national criminal record check .



How do we do fingerprinting?

The child care center is responsible for obtaining fingerprints:

- *May be taken by law enforcement agencies- usually involves a fee*
- *May be taken by companies/agencies that specialize in taking prints*
- *May be taken by center staff/subcontractors who have received appropriate training in rolling fingerprints (DPS, law enforcement, entity qualified to provide training)*
- *Center shall ensure that fingerprints are rolled on cards and in a manner allowed by the DPS/DCI*

What do we do with the rap sheets we get from DPS?

If you receive an FBI response form with an “I”, this means that a “hit” has been identified. You will also receive a rap sheet for the person. When this happens, do the following IF the person continues to be involved with child care at the center:

Send in a copy of:

- 1) The “I” page (the FBI response page)**
- 2) The rap sheet**
- 3) 595-1396, DHS Criminal Record Check Form B**

to:

**DHS @Riverplace
2309 Euclid Ave
Des Moines, Iowa 50310; Attn: Marsha McBee**

You DO NOT need to send in this information if there are NO hits, or if the person is no longer involved with child care at the center.

What will DHS do with FBI rap sheet?

- DHS will review/evaluate transgressions in accordance with evaluation procedures outlined earlier in slides #21, 22 .



Requesting information about the FBI check from other centers

A center may request LIMITED information from another center regarding the FBI check that may have already been performed at another center:

- Date of most recent national criminal history check conducted on the person in question by the center
- Whether or not the results of the record check process resulted in clearance for involvement with child care
- NOTHING ELSE

Requesting information about the FBI check from other centers- cont.

Process to Request:

Use Form 470-4896, National Criminal History Check Confirmation Form

- Review entire form with individual
- Ask for individual's signature permitting request to be made to previous center. Do NOT use form if individual does not authorize
- Fill out all required information
- Send entire form to center

Requesting information about the FBI check from other centers- cont.

The other center may provide the date the check was performed and indicate whether or not the record check process resulted in clearance for the person's involvement with child care

OR

The other center may **DECLINE** to provide info

OR

**THE OTHER CENTER MAY NOT SEND THE FORM
BACK**

Requesting information about the FBI check from other centers- cont.

Q.: What if the other center:

- Does not return the form
- Leaves date blank
- Indicates the person was not cleared for involvement with child care?

A. : The person is still subject to the FBI check and the center is still responsible for ensuring that the fingerprints are submitted to the DPS/DCI no later than 30 days from the start of employment. Instructions are on form. Centers need to track carefully on this.

Requesting information about the FBI Check from other Centers- cont.

Form 470-4896 National Criminal History Check Confirmation

Form MAY NOT be used to get information about the Iowa check. It is for the FBI national criminal record check ONLY!

The Form must be placed in the individual's personnel file

Potential Waivers

- **For centers participating in student intern programs sponsored by an educational institution when the institution has already performed an fingerprint-based check of the FBI national criminal database of the student; or for centers that are already required to submit fingerprints for the purpose of an FBI national criminal history check due to federal regulations**
 - **NOT automatic waiver**
 - **If seeking a waiver, centers MUST complete Form 470-4893 Child Care Center Record Check Waiver Form and provide all requested information and supporting documentation (Form is in training materials under “DHS Forms” and will be in Provider Manual Comm. 204.)**
 - **DHS reviews, makes decision to approve or deny within 60 days of receipt of form**
 - **Centers must perform FBI national record check pending decision from DHS**
 - **Send Form w/documentation to: Iowa Department of Human Services
Hoover Building, 5th Floor
1305 E. Walnut
Des Moines, Iowa 50319**

Record Check Forms- personnel file

Which record check forms go in Personnel File?

- Statement signed by each individual indicating whether or not conviction or child/dependant adult abuse in any state
- Statement signed by individual that they were informed of record check prior to it being conducted
- Form 595-1396, DHS Criminal History Record Check Form B
- Copies of the results of the Iowa record checks conducted through SING, including Form S from DCI criminal and sex offender check, DCI rap sheet, SING results screen
- National criminal check Waiver Agreement and Statement Form
- Copies of national criminal history check results, to include the FBI Response Page and rap sheet; also National Criminal History Check Confirmation Form 470-4896. National record check documents need to be secured at all times.
- Department-issued documents related to a record check (evaluation notification letters, clearance/prohibition letters)

Licensing Fees- Who?

- New centers that submit initial applications for licensure on or after June 1, 2010
- Existing centers with relicensure dates on or after August 1, 2010.



Licensing Fee- When?

- Needs to be submitted by due date shown on invoice form- 30 calendar days from the date the licensing consultant or designee signs the form
- Needs to be submitted PRIOR to issuance of license
- If full payment not received by due date, or if a check bounces, the license can be denied/revoked

Licensing fee- amount due

Fees are determined by highest capacity noted on license- NOT enrollment

Center Capacity Fee Amount

- 0 to 20 children \$50
- 21 to 50 children \$75
- 51 to 100 children \$100
- 101 to 150 children \$125
- 151 or more children \$150

Iowa Department of Human Services

CHILD CARE CENTER LICENSING FEE INVOICE☐ **INITIAL LICENSURE**☐ **RELICENSURE**

Center/Preschool Name:	License Expiration Date
License Number	Tax ID/EIN
Location Address	
Mailing Address	
Final Capacity Determination Number	

Amount Due (See table below)	Due Date
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<u>Center Capacity</u>	<u>Fee Amount</u>
0 to 20 children	\$50
21 to 50 children	\$75
51 to 100 children	\$100
101 to 150 Children	\$125
151 or more children	\$150

Payment must be in the form of a check, cashier's check, money order or cash.

Licensing Consultant:	<i>Contact your DHS Licensing Consultant immediately if you have questions or if there are errors in this information prior to the submission of payment.</i>
Representative Signature/Title	
Date	

This form must be completed and returned with your application and payment by the due date shown above. (If you have already submitted your application, just return this form with payment by the due date.)

Return to:

4/6/2010

**License Fee Collections Unit
Iowa Department of Human Services
Supply Unit – Level A
Hoover State Office Building**

Licensing Fee Invoice Form 470-4834

- Will be completed by licensing consultant/designee upon determination of final capacity and provided to center w/amount due and due date.
- For relicensures, the invoice will be sent out with the relicensure packet.
- If the invoice is not correct, contact your consultant **IMMEDIATELY!**
- Due by due date listed on invoice (30 calendar days from consultant/designee signature)
- Payment may be in the form of check, cash, cashier's check, or money order
- Licensing Application will be sent with and to same address as invoice form

IMPORTANT CONSIDERATIONS- LICENSING FEES

- CONTACT YOUR LICENSING CONSULTANT AS SOON AS YOU ANTICIPATE ANY CHANGES TO YOUR CAPACITY
- CONTACT YOUR LICENSING CONSULTANT IMMEDIATELY IF THERE ARE ANY ISSUES WITH YOUR LICENSING FEE INVOICE



OTHER RULE CHANGES



Other rule changes



- Volunteers shall be at least 16 years of age
- ALL center directors shall adhere to the professional development requirements for staff employed 20 hours or more per week, even if the director works fewer than 20 hours per week.

Other rule changes: Supervision and Access



“Unrestricted Access” means that a person has contact with a child alone or is directly responsible for child care.

Any person in the center who is not an owner, staff member, substitute, or volunteer who has had a record check and approval to be involved with child care shall not have **“unrestricted access”** to children for whom that person is not the parent, guardian, or custodian.

There are additional restrictions for sex offenders who have been convicted of a sex offense a minor who are required to register with the Iowa Sex Offender Registry, even when the sex offender is the parent, guardian, or custodian

Other rule changes: Supervision and Access- cont.

A sex offender who has been convicted of a sex offense against a minor who is required to register with the Iowa sex offender registry (from Iowa Code 692A):

- Shall not be on the property of the child care center without the written permission of the center director, except for the time reasonably necessary to transport the offender's own minor child or ward to and from the center.
- Shall not operate, manage, be employed by, or act as a contractor or volunteer at a child care center

Other rule changes- Supervision and Access- cont.

- The center director is not OBLIGATED to provide written permission. Centers may choose to adopt more restrictive policies regarding sex offenders than are outlined in law.
- Before giving written permission, the center director shall consult with the DHS licensing consultant.



Other rule changes- Supervision and Access- cont.

Written permission shall include the conditions under which the sex offender may be present, including:

- The precise location in the center where the sex offender may be present
- The reason for the sex offender's presence at the facility
- The duration of the sex offender's presence
- Description of the supervision that the center staff will provide the sex offender to ensure that no child is alone with the sex offender.

The written permission shall be signed and dated by the director and sex offender and kept on file for review by the center licensing consultant.

Other rule changes- Supervision and Access- cont.

New Policy Requirement: 109.4(2) “h”: *Centers shall develop a policy to ensure that people do not have unauthorized access to children at the center.*

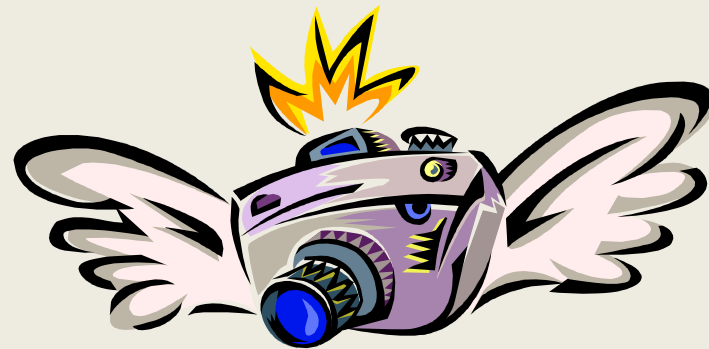
The policy shall include but is not limited to the following:

- The center’s criteria for allowing people to be on the property of the facility when children are present.
- A description of how center staff will supervise and monitor people who are permitted on the property of the center when children are present, but who have not been cleared for involvement with child care through the formal record check process. The description shall include definitions of “supervision” and “monitoring.”
- A description of how responsibility for supervision and monitoring of people in the center will be delegated to center staff, which includes provisions that address conflicts of interest.
- A description of how the policy will be shared with parents, guardians, and custodians of all children who are enrolled at the center.

The policy shall be subject to review for minimum safety standards by the licensing consultant.

Other rule changes- Supervision and Access- cont.

Centers are responsible for ensuring the safety of children at the center and preventing harm by being proactive and diligent in supervising not only the children, but other people present at the facility.



Other rule changes- Biting Policy

New Policy Requirement: 109.4(2) “g”: ***Centers shall develop a policy to ensure that people do not have unauthorized access to children at the center.***

- An explanation of the center’s perspective on biting
- A description of how the center will respond to individual biting incidents and episodes of ongoing biting
- A description of how the center will assess the adequacy of caregiver supervision and the context and the environment in which the biting occurred
- A description of how the center will respond to the individual child or caregiver who was bitten
- A description of the process for notification of parents of children involved in the incident
- A description of how the incident will be documented
- A description of how confidentiality will be protected
- A description of first-aid procedures that the center will use in response to biting incidents

CONTACT INFO

DHS POLICY

Record Checks- who, when, evals

Waivers

Biting/Supervision and Access
Policies

Sex Offenders

Licensing Fees

Other DHS policies

Renee Larsen

rlarsen@dhs.state.ia.us

515 281-0390



CONTACT INFO



DPS/DCI POLICY

National Criminal Record Check
(fingerprinting)- how to set up
accounts, submit to DCI, results,
rolling issues

Angell Boyd

boyd@dps.state.ia.us

(515) 725-6065

Iowa Criminal Record Check- SING
results, rap sheets, costs

CONTACT INFO

DAS POLICY

How to set up SING Account



Nancy Loghry

nancy.loghry@iowa.gov

(515) 281-6130